

1 **REMARKS**

2  
3 At the time of the Tenth Office Action dated August 22, 2007, claims 1-12 were pending  
4 and rejected in this application. Claims 13-16 have been added.  
5

6 **CLAIMS 1-3 ARE REJECTED UNDER 35 U.S.C. § 101**

7 On pages 2 and 3 of the Tenth Office Action, the Examiner asserted that the claimed  
8 invention, as recited in claims 1-3, is directed to non-statutory subject matter. This rejection is  
9 respectfully traversed.  
10

11 At the outset, Applicant notes that independent claim 1 has been amended to clarify that  
12 the claim is directed to a computer readable storage medium. A computer usable/readable  
13 medium is an article of manufacture and, thus, is statutory. In this regard, the Examiner is  
14 directed to M.P.E.P. § 2106.01, which states:

15 When functional descriptive material is recorded on some computer-readable medium, it becomes  
16 structurally and functionally interrelated to the medium and will be statutory in most cases since  
17 use of technology permits the function of the descriptive material to be realized.  
18

19 Thus, as clearly described in M.P.E.P. § 2106.01, the subject matter recited in claim 1 is  
20 statutory subject matter within the meaning of 35 U.S.C. § 101. Applicant, therefore,  
21 respectfully solicits withdrawal of the imposed rejection of claims 1-3 under 35 U.S.C. § 101.  
22

23 **CLAIMS 1-12 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON**

24 **SHAMBROOM, U.S. PATENT NO. 5,923,756, IN VIEW OF HOUSLEY ET AL. (HEREINAFTER**  
25 **HOUSLEY)**

1           On pages 3-5 of the Tenth Office Action, the Examiner asserted that one having ordinary  
2 skill in the art would have been impelled to modify Shambroom in view of Housley to arrive at  
3 the claimed invention. This rejection is respectfully traversed.

4  
5           At the outset, Applicant notes that the Examiner has failed to establish that Housley is  
6 prior art. Although the documents provided by the Examiner indicate a date of "January 1999,"  
7 it is unclear as to when this document was actually published. The present application has a  
8 filing date of January 29, 1999. Thus, if this document was published, for example, on January  
9 31, 1999, then this document does not apply as prior art.

10  
11           Obviousness is a legal conclusion based on underlying facts of four general types, all of  
12 which must be considered by the trier of fact: (1) the scope and content of the prior art; (2) the  
13 level of ordinary skill in the art; (3) the differences between the claimed invention and the prior  
14 art; and (4) any objective indicia of nonobviousness.<sup>1</sup> Upon reviewing the Examiner's statement  
15 of the rejection with regard to claim 1 on pages 3 and 4 of the Fourth Office Action, Appellants  
16 submits that the Examiner has failed to clearly designate the teachings in Housley being relied  
17 upon the statement of the rejection. In this regard, the Examiner's rejection under 35 U.S.C. § 103  
18 also fails to comply with 37 C.F.R. § 1.104(c), which provides:

19                     In rejecting claims for want of novelty or for obviousness, the examiner must cite the best  
20 references at his or her command. When a reference is complex or shows or describes inventions  
21 other than that claimed by the applicant, the particular part relied on must be designated as nearly  
22 as practicable. The pertinence of each reference, if not apparent, must be clearly explained and  
23 each rejected claim specified.  
24

---

<sup>1</sup> See *KSR Int'l v. Teleflex Inc.*, 550 U.S. \_\_\_\_ (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966);  
*Continental Can Co. USA, Inc. v. Monsanto Co.*, 948 F.2d 1264, 1270, 20 USPQ2d 1746, 1750-51 (Fed. Cir. 1991);  
*Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1566-68, 1 USPQ2d 1593, 1594 (Fed. Cir. 1987).

1           The Examiner has not designated the particular parts of Housley being relied "as nearly  
2 as practicable." Instead, the Examiner's statement of rejection refers to entirely paragraphs  
3 within Housley. Although broadly identifying where the Examiner believes the claimed  
4 limitations are disclosed in Housley, the statement of the rejection fails to clearly identify many  
5 of the specific elements within Housley being relied upon in the rejection, as required by 37  
6 C.F.R. § 1.104(c).

7  
8           At the outset, Applicant disagrees with the Examiner's apparent conclusion that "the  
9 certificate includes a section (certificate extension) that identifies the algorithm, parameters, and  
10 a public key." In this regard, the Examiner is directed to Section 4.2 of Housley, which describes  
11 standard certificate extensions. As stated in this section, "[t]he extensions defined for X.509 v3  
12 certificates provide methods for associating additional attributes with users or public keys and for  
13 managing the certification hierarchy."

14  
15           Applicant also disagrees with the Examiner conclusion that "[t]he list of algorithms  
16 disclosed in Shambroom also anticipates an extension for identifying at least one alternative  
17 algorithm." Shambroom teaching that a certificate includes "a list of one or more cryptographic  
18 algorithms that *the network server supports*" is not comparable to "*said certificate capable of*  
19 *supporting* more than one cryptographic algorithm."

20  
21           Regarding a second public key and signature being provided in the algorithm, the  
22 Examiner asserted "Housley does explicitly teach this (certificate extension) feature in Sections  
23 7.2 and 7.3). Applicant disagrees. Although Sections 7.2 and 7.3 respectively describe signature

1 algorithms and subject public key algorithms, the Examiner has not established that either of  
2 these sections discloses that a certificate includes both a first and second signatures (i.e., two  
3 signatures) with respective public keys, as claimed. The disclosure by Housley of alternative  
4 signatures does not identically disclose multiple signatures in the same certificate. Therefore,  
5 even if one having ordinary skill in the art were motivated to modify Shambroom in view of  
6 Housley, the claimed invention would not result.

7  
8 Applicant, therefore, respectfully submits that the imposed rejection of claims 1-12 under 35  
9 U.S.C. § 103 for obviousness based upon Shambroom in view of Housley is not factually or legally  
10 viable, and hence, Applicant solicits withdrawal thereof.

11  
12 Newly added claims 13-16 clarify that the signature for all authenticated attributes  
13 includes the signing of the second certificate extension (see page 10, lines 11-14), and the  
14 signature for each alternative cryptographic algorithm does not include the signing of the second  
15 certificate extension (see page 10, lines 6-8). These features are neither taught nor suggested by  
16 the applied prior art.

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully requests reconsideration and prompt allowance of the pending claims.

Although Applicant believes that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: November 23, 2007

Respectfully submitted,

/Scott D. Paul/

\_\_\_\_\_  
Scott D. Paul

Registration No. 42,984

Steven M. Greenberg

Registration No. 44,725

Phone: (561) 922-3845

CUSTOMER NUMBER 46320